

The case of the twins

S. E. K. MQHAYI



Collingwood August's translation of the Xhosa classic *Ityala lamaWele* will appear in three parts. In the opening two chapters the twins' dispute is brought to Hints'a's court

Although I am no kind of expert on legal affairs, I have, however, the conviction that the legal system of the Xhosas is not in the slightest degree different from that of the enlightened nations. When the white races came to this country, they found that the people of this country are virtually experts — all of them — in legal procedure. Further they found that the customs of the Xhosas are based upon precedent. The white races took for themselves a considerable share of the customs and laws of the Xhosas.

In this short tale I am endeavouring to show the efforts, the pains, and the time that the Xhosas take when they research into the origin of law, for they are trying to base it upon precedent. I am also trying to show that the king is not the final arbiter of affairs by himself, as foreigners believe is the case with us.

The language and culture of the Xhosas is gradually disappearing because of the Word and the enlightenment that have come among us — which things have come with the nations of the West*, the sons of Gog and Magog.

It is the duty of the youth of the Xhosas to examine conscientiously what will happen when this language and culture disappear completely.

This, then, is a small effort in trying to stem that strong current which will sweep away the whole nation. Try also on your side to support this effort.

I am yours in the effort of the nation, S. E. KRUNE MQHAYI
At Mpongo, June 1914

THE KING

The king who presided over the case was Hints'a;
The one on whose eyebrows they look and say
he is angry,
The bull they think has gored before it
has gored.

Hints'a was the son of Khawuta; Khawuta was born by Gcaleka, Gcaleka was born by Phalo, while Phalo is the son of Tshiwo, of Ngconde, of Togu, of Sikhomo, of Ngchwangu, of Tshawe, of Nkosiyamntu, of Malangana, of Xhosa.

I

THE COMPLAINT IS LAID

"I'M COMPLAINING!"

"Continue!"

"I'm complaining against They-are-two!"

"Continue!"

"They-are-two is usurping my place!"

"Continue!"

SAMUEL EDWARD KRUNE MQHAYI, great Xhosa poet, historian, translator, biographer and journalist, was born in the Ciskei, South Africa, in 1875, educated at Centane and Lovedale, became a teacher and public figure in East London, Cape Province, later retiring to the country. He wrote for early Xhosa newspapers, *Izwi laBantu* and *Imvo zabaNtsundu*, published many books and became revered among all Xhosa-speaking people of South Africa as their "poet of the nation". He died in 1945. *Ityala lamaWele* was originally published in Xhosa by the Lovedale Press in 1914.

"Whereas we are people related, it appeared that while we live together he has been cunning. But it also appeared that I have been cunning too!"

"Continue!"

"Now that the master of the home is not present, it is a problem to run the affairs of the home, for none of us agrees to move from his stand; each says he is the heir!"

"Continue!"

"I have therefore said I should bring this matter to my home here so that it should be solved for us!"

"Continue!"

"I beg to remain, my lord!"

"Continue — continue! Mh-m-m! Rather, you say you are complaining, rather?"

"I say I am complaining."

"You are complaining against They-are-two?"

"Aye."

"This They-are-two, whose son is he?"

"He's the son of Cause-to-rejoice."

"What is he to you, that They-are-two?"

"He's my elder brother."

"And then you say . . . you say he is usurping your place?"

"I say so."

"How do you say so?"

"I say so because he does not allow me to attend to the affairs of my home."

"Such affairs as which?"

"How shall I explain the multifarious details of the affairs of a home?"

"I say to you from what sort of affair is They-are-two excluding you?"

"I had said, at the very beginning, They-are-two is cunning; and I am cunning. The result was two bulls — things that cannot live in one kraal† and anything be right after that."

"Make it explicit."

"Don't you hear it?"

"Cause it to come across."

"There it is."

"You've not yet laid a complaint while you indulge in circumlocution. You're still making small talk — small talk," said Ntentema turning his back on him and walking away.

"Just what are you saying, young man?" asked Fuzile, a Ngqosini, who had been lying on his side some distance away listening. "You say you are complaining against They-are-two?"

"I say I'm complaining against They-are-two."

"You also say They-are two is your elder brother?"

"I had been saying so, my lord."

"Now, what do you say?"

"I still say so, sir."

"Now, who is claiming, you or your elder brother?"

"He is."

"You say he is claiming the heirship?"

*West here is not being used in the modern meaning; it is being used to describe white people — who came out of the West, i.e., all white people.
†Kraal, in this context does not mean "home" as some English writers suppose. It simply means an enclosure for cattle.

"I say so."

"In what regard to your own mouth which says he is your elder brother?"

"That is the mouth of people, and not my own."

"What are you saying, young man? What are you saying? Where are those people, in you?"

"That is the very aspect which has brought me to my home here so that it should be unravelled to me, for we both saw the sun on the same day with that They-are-two."

"How?"

"By twinship."

"O-o-o! Mh-m-m! You are a twin!"

"We are twins!"

"Which appeared first?"

"They-are-two."

"They-are-two."

"They-are-two."

"This name signifies the twoness of twinship?"

"It's exactly so."

"And you, what is your name?"

"I am Twin."

"Whose sons are you?"

"We are the sons of Cause-to-rejoice."

"Of what place?"

"Of Thoboshane."

"A man of what clan?"

"A Nzothwa."

"In the area of what chief?"

"In the area of S —"

Just when Twin was saying that word there appeared Kosani, a Vala, and Cause-to-eat, a Gora, who were both on riding animals.*

As they rode past at a rather brisk trot, they asked Twin:

"Please say. On what matter are you at the Great Place, here?"

"Oh! I'm Complainant."

"What are you complaining about, then?"

"I'm complaining against They-are-two."

"Speak on."

By this time Cause-to-eat and Kosani were out of hearing as, indeed, they had not stopped their animals.

"Speak on, young man," Fuzile proceeded, "in whose headmanship?"

"That of Smalldoor."

"And what says Smalldoor?"

"In short, sir, I can say, Smalldoor says I make a triviality out of serious talk, for there is no younger son who ever attained stewardship in the presence of the elder."

"Which is the elder?"

"They-are-two?"

"So says Smalldoor?"

"So says Smalldoor."

At this point there arrived Bright, an affluent man of the Small

Rains, accompanied by a group of men. They all cross-examined the complainant at great length after they had heard his complaint. When they heard of Smalldoor's decision they paused.

After this matter had been transmitted in all its detail to the King, with some twenty councillors, by Fuzile and Gqomo, an elder of the Bambas, Wisizwi, an eloquent Tshonyanc, was heard to say, "And I heard you, Oh! you word." As he said this he knocked the ashes out of his pipe. Mancapha, a very aged Qocwa, said, "This unending world, I lived it and lived it until I tasted even its innermost bile."*

Saying so, he took out of his bag the piece of balsawood, which was meant for tinder, he had placed there the previous day.

Mkrweqana, an ebullient young man, who so frequented the Great Place, that occasionally he was sent on minor errands, exclaimed, "The time is now ours, and we shall put matters right." As he said this he was working on the decoration of the codpiece† which he was preparing to wear at a dance to be held soon at Siko's village at the Waterfall. As he said this, Roloma, an elder of the Cetes, who was carving a hardwood staff momentarily glanced at him with extremely disapproving eyes. All along, the King had kept on smoking his pipe without saying a single word while staring at the ground.

By now Twin was already absent, for he had been told to go home for the time being; his matter had been heard.

*Not meaning its bitterness but its innermost aspects.

†An article made of softened goatskin and worn to conceal from the eyes of females and as-yet-uncircumcised boys the circumcision scar.

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*The riding animals were oxen as horses were hardly known among the Xhosas at this time. The word for "riding animal" is not translatable into English, a language which appears to have no equivalent.

II

THE CASE IS HEARD

AFTER THE DANCE at Siko's place, Hintsá, the King, sent Bright and Mdunywa, a Típha — both in the prime of life with a promise of sober maturity — to go to Smalldoor and summon him to the Great Place. He deliberately sent them off late in the evening so that they should sleep at Smalldoor's village and therefore be able to gather, surreptitiously, some information relating to this case.

Since he had heard about this case, the King appeared not to be happy. Indeed, he was not a King who had any communication with his councillors on any matter that appeared litigious.

While Bright and Mdunywa were crossing Smalldoor's village, before coming in view of the chief's home, they passed the home of Nqwakuza a man of the Nyele clan. Here they found a group of men who were putting the finishing touches to the shin bones and trotters of a calf that had died from the disease of young animals. They greeted the group of diners which responded warmly. They then came and squatted on the ground and ordered a young boy to bring them a glowing coal (for their pipes).

The diners mercilessly teased the travellers for arriving after the wedding of the Khoikhoín woman,* saying their baboons† had obviously grown old and got into the habit of arriving late.

While the travellers were lighting their pipes they were asked where they came from and where they were going. They were also asked, as people who were coming from the general direction of the Great Place, as to what stage the case of the younger son of Cause-to-rejoice had reached. The travellers denied even that they had ever heard of a case even remotely similar to that one. They even asked what kind of case. Nqwakuza, trying to explain, said, "Young men, these days, when their stomachs are full, love to go to court on trivialities. There is a young man here who for three years has held us in his hand saying he wants to be an heir although he is born a younger son. We now understand the matter has reached even the Great Place and we thought we might hear more from you, who come from that general direction."

The messengers shook off the dust from their clothing and passed on to reach the headman's home just after sunset. These gentlemen were received with great hospitality as it was well-known where they came from.

These gentlemen then made so much conversation that Smalldoor felt free to broach the matter of this case, in whose connection he suspected the King wanted to see him. He explained at great length to the visitors all the details of the case as he knew them and finally turned to them to ask whether they had ever heard of such a thing even as a folk tale.

On the morrow, just after the milking of the cows in the morning,

these gentlemen from the Great Place arose to go home. Smalldoor asked them to tell the King that he was coming; and that he would arrive in the early evening — just as the rabbits were getting up to feed. True to his word, Smalldoor arrived in the early evening accompanied by Madume, an elder Hegebe, and Sigadi, a young man, whose duty it was to chastise any dogs, which not knowing them, would bark at them. The King ordered that sleeping places should be made ready for them at the house of the chief wife. He himself spent a large part of the night at the chief wife's place together with Ngqokoma, an Off-white, and Malinga, a Grey — men who were known throughout the kingdom for holding their tongues.

In the early red dawn the men from Thoboshane returned home. But no one knew exactly what the king had wanted them for. It then came to pass that men were sent to go throughout the kingdom announcing that on the third day there would be a meeting at the Great Place.

Indeed, on the day, councillors* appeared over the mountain passes and across the fords. They began to arrive from the end of the dawn until the sun had considerably left the mountains.

By the time the cattle left for their morning grazing the Great Place was a red mass.† Twin was already squatting on the ground with his maternal uncle, Mgqaliso, a Bald-Head. They-are-two arrived with his two paternal uncles‡ and they squatted at the other end of the courtyard.

All this morning His Majesty did not come out of his palace. But now a young man was seen carrying the unsoftened hide of an eland. He came and laid it in the midst of the chief councillors. As he was busy laying it open His Lordship was seen approaching. He appeared as if he were not at all happy. The whole court mumbled their greeting, "A! Zanzolo!" His Majesty did not respond, but squatted on the eland hide.

He had hardly sat down when he asked Story, a hero and a Mpinga, what these people were waiting for all the morning. Story, without any delay, asked Twin to explain to the court what they had met for. Twin again described at full length all these events which I have already narrated.

They-are-two was then asked to say his say. He carried on like this: "Sirs, and you gentlemen of my home, my own home, I have nothing that I know, for I, too have been called. One little thing that I have some slight knowledge of is that I was born by Cause-to-rejoice through a woman of the Bald-Heads. I am a twin, a twin with my younger brother who is now having a scurrilous disputation with me. Those who confined my mother say that I was the first to appear and that Twin came after. We grew up understanding that. We got circumsised understanding that; and everybody knows that. Until the time our late father left us, there is no argument. I have heard only recently that I must give room to Twin so that he may administer the family of Cause-to-rejoice, as he is the elder; furthermore it is he who says that." The men burst into laughter at this.

*The Khoikhoín ("Hottentots," to use the derogatory term) did not (unlike the Xhosas) spend many days over their wedding ceremonies.

†Sorcerers are believed to ride (one leg on the back of the baboon, the other taking long strides on the ground) on baboons. Obviously an elderly baboon is not as agile as a young one.

*Councillors here mean both councillors and ordinary subjects.

†Red with the ochre with which their clothing was smeared.

‡The word is a derivation of "father," for one's paternal uncles are in fact one's fathers.

"I have been summoned on several occasions by Smalldoor, it being understood we are discussing this matter; we discuss at extremely great length and end in bafflement. And I am then told to return home in the midst of that bafflement. So to say, my lords, if there is a person who can lay a complaint it is he who has a matter that can be discussed and be understood. Therefore, I beg to remain."

Story then referred to the court saying, "So say the twins, counsellors."

Mxhuma, a man of the Khomanzi-Qhinebe, spoke first and said to complainant, "So you say you are complaining for not being given your rightful place — that of the elder."

"Yes, sir."

"Do you know that it is the custom among Tshiwo's peoples that the person born first is the heir?"

"Yes, sir."

By coming to the Great Place here, young man, what have you come to ask the law to do for you?"

Twin kept quiet and did not answer.

Mxhuma reiterated, "Now then — now then, son of Cause-to-rejoice, please help Khawuta's people. What have you come to ask the court to do for you?"

Twin kept quiet and did not answer.

Mxhuma then went on to speak to They-are-two. "Please help this court, son of Cause-to-rejoice, please help Khawuta's people. This is the first time such a matter has been heard in Gcaleka's family and its bile together with its bitterness is therefore desirable. You say that you and Twin were born of the same woman on the same day?"

"I say so my lord."

"You grew up together and you were circumcised together?"

"Yes, sir."

"While you were growing up did you ever discuss this matter?"

"Which matter, my lord?"

"This that you are twins."

"Yes, sir, we discussed it frequently; the other boys also discussed it frequently, commenting that I was so small while my younger brother was a giant, and that he was so hairy while I was smooth, and also that I looked young."

"And by saying so, what did those boys suggest should be done?"

"No, my lord. The boys, in their childishness, were suggesting that we change around, I to be the younger, Twin the elder."

"Ah! Then did you finally do that?"

"Which, my lord?"

"That changing around."

"I might not say so."

"Make it brilliant, young man, make it brilliant."

"We are now not talking about matters of the childish playfulness of boys, my lord."

"Indeed, I do not say we are talking about such matters; I say, however, make this little matter to be brilliantly clear, did you finally commit this playfulness of changing places?"

At this stage of the proceedings there intervened Siphendu, a Zangwa, shouting. "What is all this? When is this case going to be heard? We are busy discussing the matters of boyhood, what have they to do with this court?"

"Gently, gently, Siphendu, the court was still listening," said Gqomo. Siphendu appeared to be wanting to continue making his point but the other man reprimanded him and he calmed down.

Mxhuma trod slowly saying, "I was still there, my son, I was still saying carry this word over the hill: did you ever do that playfulness of changing places with your younger brother here?"

"Yes, there is something resembling that."

"Say on, please."

"On a certain day we went bird hunting being a group of boys; the other boys came back with trophies, and I with nothing. And the others said Twin should give me a share of his. But Twin said that would be the day the eldership became him. The others insisted that I should not pay heed to the suggestion as it would not develop into anything. I was then given a *nkhwili*,* after I had taken an oath that Twin would be the elder."

"Thus he says, ye people!" Mxhuma exclaimed covering himself in the leopard skin that had been given to him at the Great Place on the day he brought the breast of a buffalo there.

The court became embarrassingly silent until Mancapha said, "This matter will give birth to something." He then set his pipe alight and proceeded to smoke. "Smalldoor has been skimming the surface; today the men of the nation are diving to the bottom," said Mganu, a Dala, shaking his blanket and going to squat by the cattle kraal.

At this stage there appeared a man of the Ntakwendas, Ndlombose by name saying, "Mercy, O heroes, let there be mercy. Let there be no anger, let there be no disputation. These children who are suing one another have been born by us. Their father is not present, he is dead, and he died amongst us. This matter is ours; and there has never been such a matter before. These children are ours; we are the peacemakers. Let the matter be narrated; let us go back to its roots; and let us put it right." He then set down and covered himself.

There now appeared Maduma of Smalldoor's village. He turned to Twin, saying, "This eldership you are claiming, is it then based on the day of the *nkhwili*?"

"That is simply a manifestation and a confirmation of an eldership which I already possess."

"This eldership then, according to you, where did you get it?"

"At the very birth."

"No, young man, you shouldn't go on like that. The birth says which your place is, for They-are-two appeared first at birth. What says you appeared first?"

The young man kept quiet and now there was another long silence.

Zwini stood up and said, "Who was the midwife on that day you were born?"

"It was my grandmother, Teyase, and the sister of my father, Yiliwe."

Mxhuma stood up suddenly and said, "This home, has it been taken out of mourning, what were the terms of its being taken out of mourning?"

At this stage it was necessary that Teyase and Yiliwe, the midwives be called.

[To be continued]

*A rare bird of the forests.